

1 CALIFORNIA DEPARTMENT OF INSURANCE  
2 LEGAL DIVISION

3 Auto Compliance Bureau  
4 Jon A. Tomashoff, CPCU, Bar No. 173458  
5 45 Fremont Street, 21st Floor  
6 San Francisco, CA 94105  
7 Telephone: 415-538-4119  
8 Facsimile: 415-904-5490

9 Attorney for The California Department of Insurance

10 **BEFORE THE INSURANCE COMMISSIONER**  
11 **OF THE STATE OF CALIFORNIA**

12 In the Matter of

13 AUTO KNIGHT MOTOR CLUB, INC.,

14 Respondent.

STATEMENT OF ISSUES

ACCUSATION

File No's: DISP-2007-00838

15  
16  
17 1. Respondent Auto Knight Motor Club, Inc. (hereafter, "Auto Knight") is domiciled in,  
18 headquartered in and does business in California. Auto Knight holds a certificate of authority  
19 from the Department of Insurance to act as a motor club, pursuant to California Insurance Code  
20 ("C.I.C.") section 12140 et seq.<sup>1</sup> That certificate of authority was issued on January 19, 2006.  
21 Auto Knight has filed an application with the Department to obtain a license as a vehicle service  
22 contract provider ("VSCP"), pursuant to section 12800 et seq. That application is pending.

23  
24 2. Prior to receiving its certificate of authority, Auto Knight acted as a motor club without a  
25 certificate of authority with respect to contracts on which it was the obligor. These contracts  
26 promised one or more of the following benefits: Towing, emergency road service, essential fluids  
27 or supplies delivery, flat tire changes or repairs, emergency battery service, and lockout services.

28 <sup>1</sup> All statutory references are to the California Insurance Code, unless otherwise indicated.

1 Auto Knight issued over 1,300 contracts promising these motor club services prior to receiving its  
2 motor club certificate of authority, in violation of section 12160.

3  
4 3. Auto Knight acted as an automobile insurance company without a certificate of authority  
5 with respect to policies on which it was the obligor. These policies promised one or more of the  
6 following benefits: repair of chipped or cracked windshields caused by road hazard debris or  
7 propelled objects; reimbursement for the replacement of tires and wheels necessitated by road  
8 hazards; repair of dents in covered vehicles. All these benefits constitute automobile insurance  
9 pursuant to sections 22 and 116(a), (b), (c), and (d). Auto Knight issued over 1,300 contracts  
10 promising these benefits without a certificate of authority as an insurer admitted to write  
11 automobile insurance, in violation of section 700(a).

12  
13 4. The facts recited in paragraphs 1 - 3 establish that Auto Knight violated a provision  
14 (section 12253) of the motor club part of the Code, and provide good cause to revoke Auto  
15 Knight's certificate of authority pursuant to section 12164(a)1.

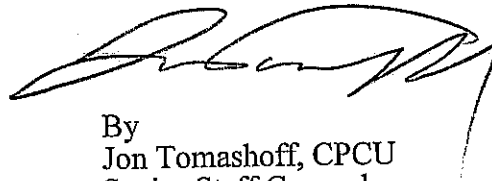
16 The facts recited in paragraphs 1 - 2 establish good cause to revoke Auto Knight's  
17 certificate of authority pursuant to section 12164(a)4. That section authorizes the Commissioner  
18 to revoke a motor club certificate of authority when the holder of the certificate of authority is no  
19 longer able to qualify for the certificate of authority. Auto Knight does not qualify for a  
20 certificate of authority pursuant to section 12162(f). Specifically, Auto Knight is lacking in  
21 management character and integrity as required by sections 12162(f) and 717(e), and is lacking in  
22 business honesty as required by sections 12162(f) and 717(h).

23  
24 5. The facts recited in paragraphs 1 - 3 establish good cause to deny Auto Knight's pending  
25 application for a license to act as a VSCP, pursuant to sections 12815(a), 1668 and 1668.5.  
26 Section 12815(a) provides that a VSCP license shall be applied for as if it were a fire and casualty  
27 broker-agent. Section 1668 authorizes the Commissioner to deny a broker-agent license pursuant  
28 to any of the following grounds, all of which apply to Auto Knight as alleged in paragraphs 1 - 3:

- 1 (b) The granting of the license would be against the public interest;  
2 (e) The applicant is lacking in integrity;  
3 (i) The applicant has previously engaged in a fraudulent practice or act or has  
4 conducted any business in a dishonest manner;  
5 (j) The applicant has shown untrustworthiness in the conduct of any business;  
6 (l) The applicant has failed to perform a duty expressly enjoined upon him by a  
7 provision of the Code or committed an act expressly forbidden by such a  
8 provision;  
9 (p) The applicant has violated a provision of law relating to conduct of business which  
10 could lawfully be done only under authority conferred by such license.  
11

12 IN WITNESS WHEREOF, I have set my hand and affixed my official seal this 17th day  
13 of January, 2008.

14 STEVE POIZNER  
Insurance Commissioner

15   
16

17 By  
Jon Tomashoff, CPCU  
Senior Staff Counsel

18  
19  
20 #431186v1  
21  
22